

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 14286US02

PATENT

In the Application of:)	
)	
Jeyhan Karaoguz, et al.)	<u>Electronically Filed On April 3, 2008</u>
)	
Serial No.: 10/667,833)	
)	
Filed: September 22, 2003)	
)	
For: MEDIA EXCHANGE NETWORK)	
SUPPORTING CONSUMPTION OF)	
BROADCAST AND USER)	
CAPTURED MEDIA)	
)	
Examiner: Cheema, Umar)	
)	
Group Art Unit: 2144)	
)	
Confirmation No.: 1002)	

PRE APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets.

Date: April 3, 2008

Respectfully submitted,
By: /Joseph M. Butscher/
Joseph M. Butscher
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Attorney for Applicants

The present application includes pending claims 1-48, all of which have been rejected. In particular, claims 1-9, 14-22, 25-27, 29-32, 34-44 and 48 stand rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 7,065,778 ("Lu"). Claims 10-13, 23-24, 28, 33 and 45-47 stand rejected under 35 U.S.C 103(a) as being unpatentable over Lu in view of United States Patent No. 6,963,358 ("Cohen").

Lu, however, does not anticipate claims 1-9, 14-22, 25-27, 29-32, 34-44 and 48. *See* February 29, 2008 Response at pages 12-17. In particular, Lu fails to describe, teach or suggest "server software that **maintains a user defined association of the first and second network protocol addresses**, that receives a request that identifies one of the associated first and second network protocol addresses and responds by identifying the other of the associated first and second network protocol addresses **to support delivery via the communication network of the 3rd party media from the at least one server, and the first media from the first storage, to the second home, and the 3rd party media from the at least one server, to the first home, for concurrent consumption of the 3rd party media by the first television display, and the 3rd party media and the first media by the second television display.**"

The Applicants have demonstrated that the portions of Lu that the Office Action relies on as disclosing these limitations do not, in fact, describe, teach or suggest all the relevant limitations. *See* February 29, 2008 Response at pages 13-16. As such, the Office Action has failed to establish a *prima facie* case of anticipation with respect to the pending claims.

Next, the proposed combination of Lu and Cohen does not render claims 10-13, 23-24 and 28 unpatentable. *See id.* at page 17. Further, claims 30-48 are also in condition for allowance. *See id.* at page 18.

The Office Action makes a general, blanket statement in an attempt to relieve the Examiner from establishing a *prima facie* case of anticipation or obviousness with respect to the pending claims. *See id.* at page 18 and February 15, 2008 Office Action at page 18. However, such a conclusory catch-all is insufficient to establish a *prima facie* case of unpatentability, particularly after the Applicant has demonstrated that the portions relied on by the Office Action do not, in fact, establish a *prima facie* case. *See* February 29, 2008 Response at page 19. Further, the final Office Action seems to acknowledge that the arguments set forth in the final Office Action are not the most persuasive. *See id.*

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For at least the reasons noted above, the Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of anticipation or obviousness with respect to any of the pending claims. Thus, the Applicants request that the claim rejections be reconsidered and withdrawn.

The Commissioner is authorized to charge any necessary fees, including the \$510 fee for the Notice of Appeal, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: April 3, 2008

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